

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1436

Introduced by Assembly Member Feuer
(Coauthors: Assembly Members Alejo, Fong, Ma, Portantino, Solorio, and Williams)

(Coauthors: Senators Padilla and Yee)

January 4, 2012

An act to amend Sections 2107, 14310, and 18001 of, and to add Article 4.5 (commencing with Section 2170) to Chapter 2 of Division 2 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 1436, as amended, Feuer. Voter registration.

Existing law establishes procedures regarding the registration of voters. Under existing law, a person may not be registered to vote except by affidavit of registration, and a voter may not vote in an election unless his or her affidavit of registration is executed and received by the county elections official on or before the 15th day prior to the election. Existing law permits any registered voter to vote by a vote by mail ballot, and further permits any voter using a vote by mail ballot to vote the ballot at the office of the elections official beginning 29 days before the election. *Existing law requires that the affidavit of registration show facts necessary to establish the affiant as an elector, as specified, and provides that if the affiant has not been issued a current and valid driver’s license or social security number, he or she shall be provided a unique identification number for voter registration purposes.*

This bill would establish conditional voter registration, using an affidavit of registration, whereby a person would be permitted to register to vote after the 15th day prior to an election or on election day, and cast a provisional ballot to be counted if the conditional voter registration is deemed effective. This bill would provide that a conditional voter registration shall be deemed effective ~~only~~ if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the registrant has provided information that matches specified state or federal databases. *The bill would provide that if the information provided by the registrant cannot be verified by matching the information to those specified state or federal databases and the registrant is otherwise eligible to vote the registrant shall be issued a unique identification number pursuant to the above-referenced provisions and the conditional voter registration shall be deemed effective.* If a conditional voter registration is not deemed effective pursuant to these new provisions, the elections official would be required to process the affidavit of registration as specified and, if the registrant meets all other eligibility requirements to vote, the registration would be deemed effective in forthcoming elections.

The bill would require the county elections official to offer conditional voter registration and provisional voting at its permanent offices, and would permit the official to offer this registration and voting at satellite offices on election day, in accordance with specified procedures. The bill would also require the county elections official to cancel, as specified, duplicate voter registrations that may arise due to conditional voter registration.

Existing law provides that upon conviction for a crime pertaining to an election for which no fine is prescribed, the court may impose, in addition to any prescribed imprisonment, a fine on the offender not more than \$1,000 for a misdemeanor or \$10,000 for a felony.

This bill would increase the amount of that fine for a felony to \$25,000.

By creating new duties for local elections officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2107 of the Elections Code is amended
2 to read:

3 2107. (a) Except as provided in subdivision (b) and Article
4 4.5 (commencing with Section 2170), the county elections official
5 shall accept affidavits of registration at all times except during the
6 14 days immediately preceding any election, when registration
7 shall cease for that election as to electors residing in the territory
8 within which the election is held. Transfers of registration for an
9 election may be made from one precinct to another precinct in the
10 same county at any time registration is in progress in the precinct
11 to which the elector seeks to transfer.

12 (b) The county elections official shall accept an affidavit of
13 registration executed as part of a voter registration card in the
14 forthcoming election if the affidavit is executed on or before the
15 15th day prior to the election, and if any of the following apply:

16 (1) A mailed affidavit is postmarked on or before the 15th day
17 prior to the election and received by mail by the county elections
18 official before the close of the polls on election day.

19 (2) The affidavit is submitted to the Department of Motor
20 Vehicles or accepted by any other public agency designated as a
21 voter registration agency pursuant to the National Voter
22 Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the
23 15th day prior to the election.

24 (3) The affidavit is delivered to the county elections official by
25 means other than those described in paragraphs (1) and (2) on or
26 before the 15th day prior to the election.

27 SEC. 2. Article 4.5 (commencing with Section 2170) is added
28 to Chapter 2 of Division 2 of the Elections Code, to read:

29

30 Article 4.5. Conditional Voter Registration

31

32 2170. (a) “Conditional voter registration” means a properly
33 executed affidavit of registration, which is delivered by the

1 registrant to a county elections official during the 14 days
2 immediately preceding an election or on election day and which
3 may be deemed effective pursuant to this article after the elections
4 official processes the affidavit, determines the registrant's
5 eligibility to register, and validates the registrant's information,
6 as specified in subdivision (c).

7 (b) In addition to other methods of voter registration provided
8 by this code, an elector who is otherwise qualified to register to
9 vote under this code and Section 2 of Article II of the California
10 Constitution may complete a conditional voter registration and
11 cast a provisional ballot during the 14 days immediately preceding
12 an election or on election day pursuant to this article.

13 (c) (1) A conditional voter registration shall be deemed effective
14 ~~only~~ if the county elections official is able to determine before or
15 during the canvass period for the election that the registrant is
16 eligible to register to vote and that the information provided by
17 the registrant on the registration affidavit matches information
18 contained in a database maintained by the California Department
19 of Motor Vehicles, or other state government agency, or the federal
20 Social Security Administration.

21 (2) If the information provided by the registrant on the
22 registration affidavit cannot be verified pursuant to paragraph (1)
23 but the registrant is otherwise eligible to vote, the registrant shall
24 be issued a unique identification number pursuant to Section 2150
25 *and the conditional voter registration shall be deemed effective.*

26 (d) The county elections official shall offer conditional voter
27 registration and provisional voting pursuant to this article, in
28 accordance with the following procedures:

29 (1) The elections official shall provide conditional voter
30 registration and provisional voting pursuant to this article at all
31 permanent offices of the county elections official in the county.

32 (2) The elections official shall advise registrants that a
33 conditional voter registration will be effective only if the registrant
34 is determined to be eligible to register to vote for the election
35 pursuant to subdivision (c).

36 (3) The elections official shall conduct the receipt and handling
37 of each conditional voter registration and offer and receive a
38 corresponding provisional ballot in a manner that protects the
39 secrecy of the ballot and allows the elections official to process
40 the registration, to determine the registrant's eligibility to register,

1 and to validate the registrant's information before counting or
2 rejecting the corresponding provisional ballot.

3 (4) After receiving a conditional voter registration, the elections
4 official shall process the registration, determine the registrant's
5 eligibility to register, and attempt to validate the information.

6 (5) If a conditional registration is deemed effective, the elections
7 official shall include the corresponding provisional ballot in the
8 official canvass.

9 (6) If a conditional voter registration is not deemed effective
10 pursuant to this article, the elections official shall process the
11 affidavit of registration pursuant to Sections 2102 and 2107 and,
12 provided that the registrant meets all other eligibility requirements
13 to register to vote, the registration shall be deemed effective in
14 forthcoming elections.

15 (e) The county elections official may offer conditional voter
16 registration and provisional voting pursuant to this article on
17 election day at satellite offices of the county elections office, in
18 accordance with the procedures specified in paragraphs (2) to (6),
19 inclusive, of subdivision (d).

20 2171. (a) A conditional voter registration accepted under this
21 article shall include the information required by Article 4
22 (commencing with Section 2150).

23 (b) A conditional voter registration accepted under this article
24 shall be processed in accordance with general voter registration
25 procedures provided in this chapter and established by regulations
26 adopted by the Secretary of State.

27 (c) A provisional ballot cast under this article shall be subject
28 to the requirements for provisional voting in Article 5 (commencing
29 with Section 14310) of Chapter 3 of Division 14.

30 2172. (a) The elections official shall cancel any duplicate voter
31 registrations that may exist as a result of a conditional registration
32 deemed effective and shall cancel the duplicate registrations in
33 accordance with Chapter 3 (commencing with Section 2200).

34 (b) If it appears that a registrant may have committed fraud
35 within the meaning of Section 18560, the elections official shall
36 immediately notify in writing both the district attorney and the
37 Secretary of State.

38 SEC. 3. Section 14310 of the Elections Code is amended to
39 read:

1 14310. (a) At all elections, a voter claiming to be properly
2 registered, but whose qualification or entitlement to vote cannot
3 be immediately established upon examination of the index of
4 registration for the precinct or upon examination of the records on
5 file with the county elections official, shall be entitled to vote a
6 provisional ballot as follows:

7 (1) An elections official shall advise the voter of the voter's
8 right to cast a provisional ballot.

9 (2) The voter shall be provided a provisional ballot, written
10 instructions regarding the process and procedures for casting the
11 ballot, and a written affirmation regarding the voter's registration
12 and eligibility to vote. The written instructions shall include the
13 information set forth in subdivisions (c) and (d).

14 (3) The voter shall be required to execute, in the presence of an
15 elections official, the written affirmation stating that the voter is
16 eligible to vote and registered in the county where the voter desires
17 to vote.

18 (b) Once voted, the voter's ballot shall be sealed in a provisional
19 ballot envelope, and the ballot in its envelope shall be deposited
20 in the ballot box. All provisional ballots voted shall remain sealed
21 in their envelopes for return to the elections official in accordance
22 with the elections official's instructions. The provisional ballot
23 envelopes specified in this subdivision shall be of a color different
24 than the color of, but printed substantially similar to, the envelopes
25 used for vote by mail ballots, and shall be completed in the same
26 manner as vote by mail envelopes.

27 (c) (1) During the official canvass, the elections official shall
28 examine the records with respect to all provisional ballots cast.
29 Using the procedures that apply to the comparison of signatures
30 on vote by mail ballots, the elections official shall compare the
31 signature on each provisional ballot envelope with the signature
32 on the voter's affidavit of registration. If the signatures do not
33 compare or the provisional ballot envelope is not signed, the ballot
34 shall be rejected. A variation of the signature caused by the
35 substitution of initials for the first or middle name, or both, shall
36 not invalidate the ballot.

37 (2) (A) Provisional ballots shall not be included in any
38 semiofficial or official canvass, except under one or more of the
39 following conditions:

1 (i) The elections official establishes prior to the completion of
2 the official canvass, from the records in his or her office, the
3 claimant's right to vote.

4 (ii) The provisional ballot has been cast and included in the
5 canvass pursuant to Article 4.5 (commencing with Section 2170)
6 of Chapter 2 of Division 2.

7 (iii) Upon the order of a superior court in the county of the
8 voter's residence.

9 (B) A voter may seek the court order specified in this paragraph
10 regarding his or her own ballot at any time prior to completion of
11 the official canvass. Any judicial action or appeal shall have
12 priority over all other civil matters. No fee shall be charged to the
13 claimant by the clerk of the court for services rendered in an action
14 under this section.

15 (3) The provisional ballot of a voter who is otherwise entitled
16 to vote shall not be rejected because the voter did not cast his or
17 her ballot in the precinct to which he or she was assigned by the
18 elections official.

19 (A) If the ballot cast by the voter contains the same candidates
20 and measures on which the voter would have been entitled to vote
21 in his or her assigned precinct, the elections official shall count
22 the votes for the entire ballot.

23 (B) If the ballot cast by the voter contains candidates or
24 measures on which the voter would not have been entitled to vote
25 in his or her assigned precinct, the elections official shall count
26 only the votes for the candidates and measures on which the voter
27 was entitled to vote in his or her assigned precinct.

28 (d) The Secretary of State shall establish a free access system
29 that any voter who casts a provisional ballot may access to discover
30 whether the voter's provisional ballot was counted and, if not, the
31 reason why it was not counted.

32 (e) The Secretary of State may adopt appropriate regulations
33 for purposes of ensuring the uniform application of this section.

34 (f) This section shall apply to any vote by mail voter described
35 by Section 3015 who is unable to surrender his or her unvoted vote
36 by mail voter's ballot.

37 (g) Any existing supply of envelopes marked "special challenged
38 ballot" may be used until the supply is exhausted.

39 SEC. 4. Section 18001 of the Elections Code is amended to
40 read:

1 18001. Upon a conviction for any crime punishable by
2 imprisonment in any jail or prison, in relation to which no fine is
3 herein prescribed, the court may impose a fine on the offender not
4 exceeding one thousand dollars (\$1,000) in cases of misdemeanors
5 or up to twenty-five thousand dollars (\$25,000) in cases of felonies,
6 in addition to the imprisonment prescribed.

7 SEC. 5. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.